

REMARKS

Claims 1-24 are presented in this application. The Office Action requires election of a species from the following: Group I, drawn to Figs. 1-17; and Group II, drawn to Figs. 18-25.

Claims 1, 3, and 5-24 read on Group I.

Claims 2, 4-12, and 15-24 read on Group II.

No claim is identified as being generic to Groups I and II.

Applicants elect Group II, Figs. 18-25. The claims reading on these figures are identified above.

TRAVERSAL OF THE ELECTION REQUIREMENT

The present application is a National Stage PCT Application filed under 35 U.S.C. §371. Accordingly, election of an invention is not required where a unity of invention exists among the claims. PCT Rules 13.1 and 13.2 are to be followed in making a unity of invention determination.

Applicant traverses the requirement to elect a species from among Groups I and II on the grounds that the species are so closely related that a search in either group would essentially be identical. Such a search, being substantially identical, dictates that prosecution of a divisional application resulting from the restriction would result in a duplication of effort by personnel of the Patent Office.

For purposes of traversal, Applicants will discuss Fig. 1 as representative of Group I, and Fig. 18 as representative of Group II. The Examiner says that “[Group I] has a tube configuration for fins being inserted between the opposing meandering pair [of tubes] while [Group II] has a tube configuration for fins being inserted between straight portions of each meandering [tube] portion.” As best understood, this statement does not appear to identify any meaningful distinction between the so-called separate species, since in each so-called species, the straight sections of the tubes are disposed in gaps provided in the fins. This arrangement is shown in Fig. 1. Likewise, as shown in Fig. 18, the straight sections of the tubes are disposed in gaps provided in the fins, with the gaps being in a tiered arrangement. Thus, Applicants respectfully submit that so-called distinction between the species identified by the Examiner is without significance. In each so-called distinctive species, the meandering pair of tubes are placed between the fin sections.

37 C.F.R. 1.475 provides that “where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled...when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features”. In view of the foregoing, it is respectfully submitted that the Examiner has not identified any significant difference, if any difference at all, in technical feature between the

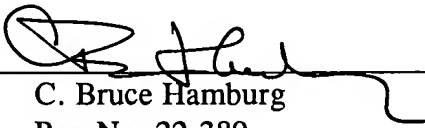
species of Group I and the species of Group II. Thus, it is respectfully submitted that a lack of unity of invention has not been shown here.

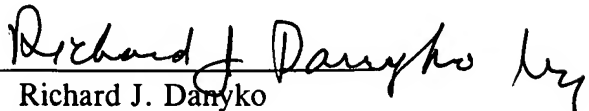
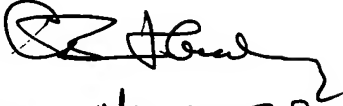
NO FEE DUE

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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